

2. It seems to be settled by the authorities in North Carolina and elsewhere, that save where the Legislature prescribes a different *situs* for personal property, such property is to be listed by and assessed against the owner only at the place of his domicile.

Cyc., 37, 947, and cases cited.

The authorities are equally clear that a man's domicile is his fixed and permanent home, to which he has the intention of returning, although he may take up a temporary or transient residence elsewhere.

In 14 Cyc., 850, it is stated in the text that persons in the governmental service are deemed to acquire no domicile at the place where they actually reside, in the absence of clear proof of a contrary intent.

The English authorities uniformly hold that no domicile is acquired by a residence which is determined by the duties of a public office.

Holden v. Eckford, L. R., 8 Eq., 631.

In *Hannon v. Grizzard*, 89 N. C., 115, our Supreme Court holds:

1. "Residence, as used in the clause of the Constitution defining political rights, is synonymous with domicile, denoting a permanent dwelling place to which a party, when absent, intends to return." In this case the plaintiff was a clerk in the service of the Federal government at Washington. He continued to pay poll tax and voted in this State, and our Court holds that his constitutional residence remained unchanged.

In *Watson v. Railroad*, 152 N. C., 216, Chief Justice Clark quotes as the clearest definition of the word "residence" the opinion of the Supreme Court of the United States in *Barney v. Oelrichs*, 138 U. S., 529: "Residence is dwelling in a place for some continuance of time, and is not synonymous with domicile, but means fixed and permanent abode or dwelling as distinguished from a mere temporary locality of existence, and to entitle one to the character of a residence there must be a settled, fixed abode and an intention to remain permanently or at least for some time for business or other purposes."

In *Wright v. Genesee*, 178 Mich., it is held: "Residence is made up of fact and intention. There must be the fact of abode and the intention of remaining."

3. But to my mind the controlling and conclusive reason for holding that the personal property of such a clerk should be listed in the county from which he was appointed is found in our own State Constitution and statutes upon the subject.

Article VI, section 4, of the Constitution provides that before a man shall be allowed to vote he must have paid his poll tax on or before the first day of May of the year in which he offers to vote. In the light of this constitutional requirement, the General Assembly, in the current Machinery Act, section 35, declares: "All taxable polls and all personal property shall be listed in the township in which the person so charged resides, on the first day of May." It appears, therefore, that personal property must be listed where the poll is listed, but the poll must be listed where a man votes, and to hold that an appointee to an office or clerkship can not retain his citizenship and vote in the county from which he is appointed would be contrary to every known precedent and to every sound legal principle.

The man who is elected to office or appointed to a clerkship in the State government from the "coves of Yancey" remains the "Gentleman from